

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13799, of Albert H. Leisinger, Jr., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1 and Paragraph 7107.22) for a proposed room and deck addition to an existing dwelling which is a non-conforming structure in an R-1-B District at the premises 4327 43rd Street, N.W., (Square 1680, Lot 23).

HEARING DATE: July 21, 1982
DECISION DATE: July 21, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the east side of 43rd Street, between Windom Place and Yuma Street, N.W., and is known as 4327 43rd Street, N.W. It is in an R-1-B District.

2. The subject property is trapezoidal in shape, being wider at the north side, which abuts the public alley, than at the south. The lot area is 10,103.9 square feet.

3. The subject property is improved with a two-story and basement single family dwelling which was built prior to 1958, the effective date of the current Zoning Regulations. The dwelling occupies 1513.91 square feet of land area.

4. The existing single-family dwelling is non-conforming as to side yard requirements, in that it is located on the northern property line, abutting the public alley. The southern side yard is 10.42 feet. The Zoning Regulations require side yards of eight feet in an R-1-B District.

5. The applicant wishes to construct a one-story addition and deck at the rear of the existing dwelling in order to remodel an existing garage within the dwelling as a study. The proposed addition extends 6.4 feet from the rear of the house, is 18.4 feet in length and provides a five foot side yard on the alley side.

6. If the applicant were required to provide an eight-foot side yard on the alley side of the proposed addition, the width of the addition would be reduced to 15.4 feet and that portion which is an extension of the proposed study would be approximately seven feet wide by six feet deep. The additional space that is proposed is required if the addition is to be used other than as a passageway and not merely as a source of light for the room.

7. The owners of the properties immediately to the north, west and east of the subject property, by letters dated June 30, 1982, July 16, 1982 and July 12, 1982, stated that they had seen the plans for the proposed addition and have no objection to the approval of this application.

8. Advisory Neighborhood Commission 3E made no recommendation on this application. The Chairman of ANC 3E and the Commissioner of Single Member District 3E01, by letter dated July 13, 1982, stated that they had seen the plans for the proposed addition and have no objections to the approval of this application.

9. There was no opposition to the application at the public hearing or in the record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a side yard variance, which requires a showing of practical difficulty that is inherent in the property itself, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The Board concludes that the existing non-conforming dwelling which pre-dates the 1958 Zoning Regulations constitutes an exceptional condition of the property. The Board further concludes that the applicant has demonstrated that he would suffer a practical difficulty if the Zoning Regulations were strictly applied. The Board concludes that the burden of proof has been met.

The Board concludes that the testimony and documentary evidence in the record evidences that the proposed addition will not be objectionable and will not be inconsistent with the intent and purposes of the regulations. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application is GRANTED.

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VOTE: 3-0 (Charles R. Norris, Connie Fortune and Lindsley Williams to GRANT; Douglas J. Patton not voting, having recused himself from the hearing; William F. McIntosh not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____

Attn E. H.

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

FINAL DATE OF ORDER: _____

SEP 24 1982